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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,402	10/19/2000	William X. Tracy	467X-1CA	6085

7590 07/19/2005

Himanshu S. Amin  
Amin & Turocy, LLP  
24th Floor, Natl. City Center  
1900 East 9th Street  
Cleveland, OH 44114

EXAMINER

DIXON, THOMAS A

ART UNIT	PAPER NUMBER
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3639

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/692,402

Applicant(s)

TRACY ET AL.

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-28, 30-35, 37, 38 and 40-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 and 43 is/are allowed.
- 6) ☒ Claim(s) 23-28, 31-35, 37, 40-42 and 45 is/are rejected.
- 7) ☒ Claim(s) 30, 41 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The amendments of 5/31/05 have been considered.

#### ***Claim Objections***

2. Claims 30, 41, 42, 44 are objected to because of the following informalities:  
as per claim 30, the phrase "portable terminal" and "portable shopping terminal" do not match and could be confusing.

as per claims 41, 42, the claims seem awkward, the word "wherein" may help.

as per claim 44, the claim seems awkward, the word "wherein" may help.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

as per claim 23, it is unclear how the list is generated and how it is emailed to a first computer.

as per claim 24 the phrase "the first computer which is used to generate the list" is confusing, because in claim 23, "generating a list" is not done on a "first computer" and is somehow emailed to "a first computer"

4. Claims 40-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

as per claim 40, it is unclear how the message causes generation of the list.

as per claim 41, the phrase "the kiosk receives the list" appears to indicate that the kiosk does not, in fact generate the list in claim 23 and is confusing.

as per claim 42, the phrase "a list of previously purchased items is communicated" appears to introduce another list which is not used for anything and is confusing.

***Allowable Subject Matter***

5. Claims 30, 38 are allowable.

6. The following is an examiner's statement of reasons for allowability.

As per Claim 30.

The prior art of record, specifically, Roach ('997) or Bianco (614) or Ruppert et al (5,424,524) do not disclose or fairly teach:

at least one kiosk that generates a customer list of items to be purchased by each of a plurality of customers; and

a shopping list distribution communication device that delivers the customer list presented on the kiosk to the portable shopping terminal corresponding to the customer using the self scanning system.

As per Claim 38.

The prior art of record, specifically, Roach ('997) or Bianco (614) or Ruppert et al (5,424,524) do not disclose or fairly teach:

transmitting from a store computer to a home computing device a list of previously purchased items, the list of previously purchased items is generated at the shopping facility based on purchase history of the user;

transmitting the customer shopping list via an e-mail message to a store computer of the shopping facility;

storing the customer shopping list in a user data file on the store computer;

in response to a user request, transmitting the customer shopping list from the user-data file to a kiosk for presentation to the user; and

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thereafter, transmitting the customer shopping list to a portable terminal device of the user in a user perceptible format.

As per Claim 43.

The prior art of record, specifically, Roach ('997) or Bianco (614) or Ruppert et al (5,424,524) do not disclose or fairly teach:

means for storing the list in a user data file on the store computer and incorporating the list with other list information in the user data file;

means for retrieving the list using a kiosk that communicates with the store computer; and

means for communicating the list to the user in a user perceptible format that includes content in the form of at least one of image data, text data, audio data, and video data.

The claims that depend from the above allowable claims are allowable for the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon  
Primary Examiner  
Art Unit 3639

July 05